



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Marc E. Elias
Graham M. Wilson
Aria C. Branch
Perkins Coie LLP
700 13th Street N.W., Suite 600
Washington, D.C. 20005

MAY - 4 2017

RE: MUR 7124 (EMILY's List and Ranny
Cooper in her official capacity as treasurer)

Dear Messrs. Elias and Wilson and Ms. Branch:

On August 17, 2016, the Federal Election Commission notified your client, EMILY's List and Ranny Cooper in her official capacity as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On April 27, 2017, the Commission found, on the basis of the information in the complaint, that there is no reason to believe that your client violated the Act. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which formed a basis for the Commission's findings, is enclosed for your information.

If you have any questions, please contact Shanna M. Reulbach, the attorney assigned to this matter, at (202) 694-1638.

Sincerely,

Lynn Y. Tran
Assistant General Counsel

Enclosure
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Katie McGinty for Senate and Roberta Golden
in her official capacity as treasurer
EMILY's List and Ranny Cooper in her official
capacity as treasurer
WOMEN VOTE! and Leigh Warren in her
official capacity as treasurer
Majority Forward

MUR: 7124

I. INTRODUCTION

This matter was generated by a Complaint filed with the Federal Election Commission (the "Commission") by the Foundation for Accountability and Civic Trust. The Complaint alleges that the principal campaign committee of U.S. Senate candidate Katie McGinty coordinated television advertisements supporting McGinty's campaign with EMILY's List, a multicandidate political committee; WOMEN VOTE!, an independent-expenditure-only political committee ("IEOPC") affiliated with EMILY's List; and Majority Forward, a 501(c)(4) nonprofit corporation. The Complaint also alleges that WOMEN VOTE! and Majority Forward republished McGinty campaign materials in their advertisements. These actions, according to the Complaint, violated the Federal Election Campaign Act of 1971, as amended (the "Act"), because they were not properly disclosed and resulted in excessive and prohibited contributions to the Committee, which the Committee knowingly accepted. However, as discussed in greater detail below, the Commission finds no reason to believe that the Respondents violated 52 U.S.C. §§ 30104(b), 30116(a) and (f), and 30118(a) and closes the file.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

Katie McGinty was a 2016 U.S. Senate candidate in Pennsylvania. Katie McGinty for Senate and Roberta Golden in her official capacity as treasurer (the "Committee") was her principal campaign committee and maintained her campaign website.¹ EMILY's List and Ranny Cooper in her official capacity as treasurer ("EMILY's List") is a multicandidate political committee registered with the Commission,² and WOMEN VOTE! and Leigh Warren in her official capacity as treasurer ("WOMEN VOTE!") is an IEOPC affiliated with EMILY's List and registered with the Commission.³ Majority Forward is a 501(c)(4) nonprofit corporation.⁴

In 2016, WOMEN VOTE! and Majority Forward paid for and aired television commercials in Pennsylvania supporting McGinty and attacking her opponents.⁵ The Complaint alleges that the Committee used McGinty's campaign website to coordinate with WOMEN VOTE! and Majority Forward about the content and distribution of these commercials.⁶ Specifically, the Complaint alleges that the website had a link to an "obscure" subpage that contained tips and instructions about the types of ads that IEOPCs and other organizations should

¹ Statement of Candidacy, Kathleen Alana McGinty (Aug. 4, 2015); KATIE MCGINTY DEMOCRAT FOR SENATE, <https://katieinmcginty.com/> (last visited Feb. 8, 2017) (bearing a "paid for by Katie McGinty for Senate" disclaimer).

² Amended Statement of Organization, EMILY's List (June 4, 2013).

³ EMILY's List & WOMEN VOTE! Resp. at 1 (Oct. 6, 2016); Amended Statement of Organization, WOMEN VOTE! (Nov. 4, 2015).

⁴ Majority Forward Resp. at 1 (Oct. 7, 2016).

⁵ See *infra* at 4-5.

⁶ Compl. at 1 (Aug. 15, 2016).

1 run to maximize the McGinty campaign's resources and chances of success. That subpage was
2 entitled "Notice."⁷

3 The Complaint explains that the "Notice" subpage on the Committee's website had a
4 different visual appearance than the rest of the website, did not contain any links back to the
5 website's homepage or to other subpages, repeatedly used the phrase "voters need to know," and
6 then followed that phrase with a recitation of the information the campaign wanted publicized in
7 ads.⁸ The Complaint alleges that the "Notices" would indicate what segment of the Pennsylvania
8 population should be targeted with the ads and that the Committee changed the "Notice" page
9 when it wanted groups to produce new advertisements or wanted to encourage groups to keep
10 airing a particular ad that was having an impact.⁹

11 The Complaint cites three instances in which it alleges the Committee published
12 information on the "Notice" page and WOMEN VOTE! and Majority Forward responded by
13 paying for the Committee's desired advertising. We compare the Committee's "Notices" and the
14 advertisements side by side.

⁷ *Id.* at 2.

⁸ *Id.*

⁹ *Id.* at 2-4.

"Notice" Page	WOMEN VOTE! Commercial
<p>In March 2016, the "Notice" page stated:</p> <p>At this point of the campaign, voters in Philadelphia and women all across the state of Pennsylvania need to know that Katie McGinty thinks too many families get the short end of the stick and [are] unable to achieve economic security, while the special interests get ahead. As the ninth of ten children and the daughter of a police officer who walked the beat and [a] restaurant hostess, Katie McGinty is fighting to help everyday families, who have been ignored for too long. Katie McGinty is a problem solver who will create jobs, grow wages, and create opportunity.</p>	<p>On April 5, 2016, WOMEN VOTE! began airing an advertisement entitled "Get:"</p> <p>Get up. Get to school. Get to work. Get by. Katie McGinty knows the routine. Her dad was a Philly cop, mom worked in a restaurant. Then . . . hard work opened doors. Now . . . it's not quite enough. But McGinty's working to change that. Helping create thousands of new jobs. She'll always stand up for manufacturing, higher wages, and equal pay for women. So opportunity never gets out of reach. Katie McGinty for Senate.¹⁰</p>

- 1 The Complaint notes that the information about McGinty's parents was already readily available
- 2 on the "About Katie" subpage of the campaign website, yet the Committee published it again on
- 3 the "Notice" page. The Complaint asserts that this dual publication is evidence that the "Notice"
- 4 page had a different purpose than the rest of the website.¹¹

"Notice" Page	WOMEN VOTE! Commercial
<p>In early April 2016, the Committee updated the "Notice" page to read:</p> <p>Voters in Philadelphia and women across the Commonwealth of Pennsylvania still need to know the real Joe Sestak [McGinty's primary opponent] record. He supported a budget plan backed by Tea Party Republicans that would have cut Social Security and Medicare benefits, raised the Social Security retirement age to 69, and forced higher out-of-pocket spending for Medicare recipients.</p>	<p>On April 11, 2016, WOMEN VOTE! began airing a second commercial entitled "Spin:"</p> <p>For Senate, no spin . . . just facts. Joe Sestak supports a plan that the <i>New York Times</i> reported makes cuts to Social Security benefits. And the plan raises the retirement age. It's true. The AARP opposed the plan, citing dramatic cuts to Medicare benefits. The plan Sestak supports means higher out-of-pocket costs for millions on Medicare. Any way you spin it. The truth about Sestak is gonna hurt.¹²</p>

¹⁰ Committee Resp. at 1-3 (Oct. 11, 2016).

¹¹ Compl. at 2-3, 5.

¹² Committee Resp. at 2-4.

- 1 It appears that both of WOMEN VOTE!'s commercials aired in and around Philadelphia, the
- 2 location mentioned in the "Notices."¹³

"Notice" Page	Majority Forward Commercial
<p>On July 6, 2016, the Committee updated the "Notice" page to state:</p> <p>Pennsylvania voters all across the state need to keep hearing a lot more about Pat Toomey and Wall Street. Wall Street's given Toomey \$2.7 million in contributions, and Toomey supported privatizing Social Security in the stock market. Sen. Toomey made millions as a Wall Street banker. Then he moved to Hong Kong, working for a billionaire Chinese investor. In Congress, Toomey carries Wall Street's water – voting to let banks continue their risky practices and opposing cracking down on Chinese currency manipulation. Toomey working for China has helped cost Pennsylvania more than one hundred and twenty thousand jobs.¹⁴</p>	<p>On June 24, 2016,¹⁵ Majority Forward started airing a commercial entitled "Love Affair:"</p> <p>It's a love affair. Pat Toomey [McGinty's general opponent] and Wall Street. Wall Street's given Toomey \$2.7 million dollars in contributions. And Toomey supported privatizing Social Security in the stock market. Wall Street would profit with hundreds of billions in fees, even if the market crashed and people lost everything. Pat Toomey, Wall Street. It may be love for them, but it's heartache for the rest of us.¹⁶</p>

- 3 As to this final commercial, the Complaint acknowledges that Majority Forward aired "Love
- 4 Affair" before the Committee updated McGinty's campaign website to discuss Toomey's
- 5 relationship with Wall Street. The Complaint alleges that coordination occurred because the
- 6 Committee used the "Notice" page to urge Majority Forward and other organizations to keep
- 7 highlighting Toomey's corporate interests in this and additional communications. The

¹³ EMILY's List wrote a press release about "Spin," stating that the commercial was "part of WOMEN VOTE!'s \$1 million program that started on April 5th mobilizing voters in the Philadelphia area to support Katie McGinty's bid for Senate." Compl., Attach. E. April 5 was the first day "Get" aired. Committee Resp. at 2.

¹⁴ Committee Resp. at 2.

¹⁵ Majority Forward, Report of Independent Expenditures Made and Contributions Received (July 15, 2016).

¹⁶ Committee Resp. at 4.

1 Complaint also points out that the Committee copied some of Majority Forward's language
2 verbatim for the July 6, 2016 "Notice."¹⁷

3 Based on the nature of the "Notice" page, the timing and similarities between the
4 "Notices" and the commercials, and the geographic area in which the commercials aired, the
5 Complaint alleges that the Committee coordinated with WOMEN VOTE! and Majority Forward
6 to produce and/or distribute the three commercials. The Complaint asserts that the
7 communications meet the regulations' three-part test for coordination and thus qualify as
8 contributions to the Committee. Therefore, according to the Complaint, WOMEN VOTE! and
9 Majority Forward, as an IEOPC and a corporation, respectively, violated the Act by making
10 prohibited and excessive contributions to the Committee; the Committee violated the Act by
11 accepting unlawful contributions; and all three failed to accurately report their activities to the
12 Commission.¹⁸

13 The Complaint also argues that, even if there was no coordination, WOMEN VOTE! still
14 republished material from the "Notice" page in its commercials. The Complaint argues that the
15 commercials and "Notices" had similar if not identical language and addressed the same themes,
16 amounting to republication. The Complaint then concludes that, because the act of republishing
17 campaign materials is a contribution, WOMEN VOTE! made prohibited and excessive
18 contributions to the Committee, the Committee accepted the contributions, and they both failed
19 to accurately report the contributions.¹⁹

¹⁷ Compl. at 3-4, 7.

¹⁸ *Id.* at 4-6.

¹⁹ *Id.* at 5, 7. The Complaint's allegations against WOMEN VOTE! pertain only to its alleged republication of the Committee's written materials. The Complaint does not reference video footage, recordings, photographs, or other media.

1 Finally, while the Complaint acknowledges that Majority Forward aired "Love Affair"
2 before the Committee posted the July 2016 "Notice," it suggests that the Committee may have
3 informed Majority Forward of the content of the "Notice" in private, allowing Majority Forward
4 to republish the content in "Love Affair." The Complaint alleges that this act of republication
5 would also be a prohibited and unreported contribution, which the Committee knowingly
6 accepted.²⁰

7 The Respondents deny all of the Complaint's allegations. The Respondents first argue
8 that, despite the representations in the Complaint, the "Notice" page was publicly available as
9 part of McGinty's campaign website, and the Commission has determined that publicly available
10 information does not satisfy the regulations' three-part test for coordinated communications.²¹
11 Furthermore, the Respondents claim that they did not communicate with each other about the
12 commercials and that the evidence cited in the Complaint is insufficient to create an inference
13 that they did.²² Finally, the Respondents state that the text of the WOMEN VOTE! commercials
14 varied substantially from the "Notices," and that mere commonality of theme on its own does not
15 amount to republication.²³

16 B. Legal Analysis

17 The Act provides that an expenditure made by any person "in cooperation, consultation,
18 or concert, with, or at the request or suggestion of, a candidate, his authorized political

²⁰ *Id.* at 7. Again, these republication allegations concern only written materials.

²¹ Committee Resp. at 5-6; EMILY's List & WOMEN VOTE! Resp. at 4-6; Majority Forward Resp. at 4-6.

²² Committee Resp. at 1, 4; EMILY's List & WOMEN VOTE! Resp. at 1, 3; Majority Forward Resp. at 1-2.

²³ Committee Resp. at 6-7; EMILY's List & WOMEN VOTE! Resp. at 6-7; Majority Forward Resp. at 4.

committees or their agents” constitutes an in-kind contribution.²⁴ IEOPCs and nonprofit corporations are prohibited from making contributions to candidates and their authorized committees.²⁵ Multicandidate committees may make contributions to candidates and authorized committees but are limited to \$5,000 per election.²⁶ It is unlawful for candidates and political committees to knowingly accept an excessive or prohibited contribution.²⁷

1. There is no Reason to Believe that WOMEN VOTE! and Majority Forward Coordinated their Communications with the Committee

The Commission’s regulations provide a three-part test for determining when a communication is a coordinated expenditure, which is treated as an in-kind contribution.²⁸ The communication must: (1) be paid for by a third party; (2) satisfy one of four “content” standards listed in 11 C.F.R. § 109.21(c); and (3) satisfy one of five “conduct” standards listed in 11 C.F.R. § 109.21(d).²⁹ In this matter, the Respondents have not disputed that the commercials satisfy the “payment” and “content” requirements. We therefore focus our analysis on the “conduct” standards.

The Complaint alleges that the commercials satisfy the “request or suggestion” “conduct” standard, which requires that the communication be “created, produced, or distributed at the request or suggestion of a candidate [or] authorized committee.”³⁰ The Commission has

²⁴ 52 U.S.C. § 30116(a)(7)(B)(i); 11 C.F.R. § 109.20; *see also* 52 U.S.C. § 30104(b) (requiring political committees to disclose to the Commission contributions received from other political committees and persons).

²⁵ *See* 52 U.S.C. §§ 30116(f), 30118(a); Advisory Op. at 2010-11 (Commonsense Ten) at 2-3.

²⁶ *See* 52 U.S.C. § 30116(a)(2).

²⁷ *Id.* §§ 30116(f), 30118(a).

²⁸ 11 C.F.R. § 109.21(a)-(b).

²⁹ *Id.* § 109.21(a).

³⁰ *Id.* § 109.21(d)(1). The Complaint purports to address all five “conduct” standards but provides no evidence or specifics as to any standard but “request or suggestion.” *See* Compl. at 6-7.

1 explained that the “request or suggestion” “conduct” standard refers to requests or suggestions
2 “made to a select audience, but not those offered to the public generally.”³¹ As an example of
3 the distinction between generalized and targeted requests, the Commission has provided that “a
4 request that is posted on a web page that is available to the general public is a request to the
5 general public and does not trigger the [request or suggestion] conduct standard,” whereas a
6 request sent through an intranet service or by email to a discrete group of recipients would satisfy
7 the standard.³²

8 In MUR 6821 (Shaheen for Senate), the Commission found that the use of publicly
9 available information, including the use of information contained on a candidate’s website, was
10 not sufficient to satisfy the “conduct” standards.³³ The Complaint in the Shaheen matter alleged
11 that Shaheen’s principal campaign committee and the Democratic Senatorial Campaign
12 Committee coordinated with an IEOPC when they posted information about Shaheen’s opponent
13 on Shaheen’s campaign website and on Twitter. The IEOPC responded to the posts within two
14 days, circulating a television commercial criticizing Shaheen’s opponent on the same grounds as
15 discussed in the posts.³⁴

16 Here, the facts appear to be similar to those present in the Shaheen MUR. Contrary to the
17 statements in the Complaint, the Committee’s “Notices” were not obscure and were readily
18 available on the Committee’s website, with a featured “Notice” even appearing on the website’s
19 homepage. Users could click a “read more” button within a box containing the featured “Notice”

³¹ Coordinated and Independent Expenditures, 68 Fed. Reg. 421, 432 (Jan. 3, 2003) (explanation and justification) (“E&J”).

³² *Id.*

³³ MUR 6821 (Shaheen for Senate), Factual & Legal Analysis at 7-8 (“F&LA”).

³⁴ *Id.* at 1-3.

1 to be taken to the “Notice” subpage, which was still part of the campaign website.³⁵ Thus, just as
2 in MUR 6821, the Committee’s alleged request or suggestion for advertising appeared on a
3 publicly available website—specifically, the candidate’s campaign website—and was directed to
4 the public generally instead of a select audience. As such, the McGinty campaign’s “Notices” do
5 not satisfy the “request or suggestion” “conduct” standard.³⁶

6 The Complaint also fails to present any information suggesting that the Respondents had
7 any communications beyond the public “Notices.” The cited similarities between the “Notices”
8 and the commercials, and the timing and geographic placement of the commercials, are
9 insufficient to show that any additional private communications occurred. Therefore, because
10 the available information does not support a determination or reasonable inference that the
11 “conduct” prong of the coordination test was met, there is no basis to conclude that the
12 commercials qualify as coordinated communications. Accordingly, the Commission finds no
13 reason to believe that the Committee, WOMEN VOTE!, or Majority Forward made or accepted
14 prohibited or excessive contributions, or failed to comply with their reporting requirements, in
15 violation of 52 U.S.C. §§ 30104(b), 30116(a) and (f), and 30118(a).

16 2. There is no Reason to Believe that Majority Forward and WOMEN
17 VOTE! Republished McGinty Campaign Materials.
18

19 Similarly, there is no basis to conclude that the Respondents republished campaign
20 materials. The Commission’s regulations provide that, even when there is no evidence of

³⁵ *WayBack Machine*, INTERNET ARCHIVE (last visited Feb. 8, 2017) (search for “https://katiemcginty.com/” to see snapshots of what the campaign website looked like at various times during 2016).

³⁶ See 11 C.F.R. § 109.21(a), (d); E&J, 68 Fed. Reg. at 432; MUR 6821, F&LA at 8. The Complaint alleges that the “request or suggestion” regulation does not make an exception for “material [] obtained from a publicly available source,” so the fact that the “Notices” were publicly available should not prevent the Commission from determining that there was coordination in the distribution of the commercials. Compl. at 6. The Complaint’s position, however, is erroneous in light of the just-cited authority.

1 coordination, "[t]he financing of the dissemination, distribution, or republication, in whole or in
2 part, of any . . . campaign materials prepared by the candidate [or] the candidate's authorized
3 committee . . . shall be considered a contribution for the purposes of contribution limitations and
4 reporting responsibilities of the person making the expenditure."³⁷ Nevertheless, a person may
5 reproduce "a brief quote of materials that demonstrate a candidate's position as part of a person's
6 expression of its own views" without making a contribution to the candidate.³⁸

7 In past matters, to determine whether a person republished a candidate's written
8 campaign materials, the Commission has examined the degree of overlap between the two
9 communications. In conducting this analysis, the Commission has concluded that mere thematic
10 similarities between a candidate's campaign materials and a third-party communication are
11 insufficient to establish republication.³⁹ The Commission has also determined that a person may
12 create a communication using sentences similar to those appearing in a campaign's publications,
13 so long as the sentences use different words or phrasings.⁴⁰ Finally, in MUR 6592 (Nebraska
14 Democratic State Central Committee), the Commission determined that there was no
15 republication when a person created ads repeating the same phrase used by a campaign because

³⁷ 11 C.F.R. § 109.23(a); *see* 52 U.S.C. § 30116(a)(7)(B)(iii). The candidate who produced the campaign materials does not need to report receiving an in-kind contribution unless the republication of her campaign materials is a coordinated communication. 11 C.F.R. § 109.23(a). As we have already concluded here that the Committee did not coordinate with the other Respondents, the Committee did not have a reporting obligation.

³⁸ 11 C.F.R. § 109.23(b)(4).

³⁹ MUR 6821, F&LA at 7 (stating that the materials contained "similar themes," but this "overlap" alone was not sufficient to demonstrate republication).

⁴⁰ MUR 6502 (Nebraska Democratic State Central Committee), Factual & Legal Analysis at 9 ("F&LA") (citing MUR 2766 (Auto Dealers and Drivers for Free Trade PAC) for the proposition that "similar sentences . . . do not rise to the level sufficient to indicate republication of campaign materials because of differences in wording or phrasing").

1 “the phrase [was] commonly used in political discourse, and the ads also contained significant
2 additional language that differed from the campaign materials.”⁴¹

3 *i. WOMEN VOTE! Commercials*

4 The Complaint compared WOMEN VOTE!’s advertisements, “Get” and “Spin,” with the
5 Committee’s March 2016 and April 2016 “Notices” about McGinty’s economic agenda and
6 Sestak’s budget plan, respectively. Beyond those high-level thematic similarities, though—
7 which are insufficient on their own to find republication—the advertisements and “Notices” had
8 little in common.⁴² A comparison of the statements in the “Notices” and the advertisements
9 shows that the communications contained different words and content.

10 For example, “Get” omitted the Committee’s mention of “special interests,” McGinty’s
11 siblings, her father “walking the beat,” and the description of McGinty as a “problem solver.”
12 On the other hand, “Get” added to the material in the March 2016 “Notice” by stating that
13 McGinty’s father worked in Philadelphia, McGinty would create “thousands” of new jobs, and
14 that McGinty is committed to manufacturers and women.⁴³ Similarly, while the Committee
15 sought to link Sestak to Tea Party Republicans in the April 2016 “Notice,” “Spin” did not
16 mention the Tea Party, choosing instead to include references to the *New York Times* and the
17 AARP that the “Notice” lacked. While the April 2016 “Notice” and “Spin” also contained some
18 of the same brief phrases, like “Medicare benefits” and “out-of-pocket,” those phrases are

⁴¹ *Id.*

⁴² MUR 6821, F&LA at 7.

⁴³ See Committee Resp. at 1-3..

1 commonly used in political discourse and policy discussions about the medical system and are
2 not evidence of republication.⁴⁴

3 In light of the differences in the content and phrasing of the commercials, the
4 Commission concludes that there is insufficient “overlap between the [] communications” to
5 suggest that WOMEN VOTE! republished the McGinty Committee’s “Notices,” and the
6 Commission finds no reason to believe that WOMEN VOTE! and the Committee violated 52
7 U.S.C. §§ 30104(b), 30116(a) and (f), and 30118(a).⁴⁵

8 *ii. Majority Forward Commercial*

9 As to Majority Forward’s advertisement, “Love Affair,” the Complaint admits that
10 Majority Forward created and aired the ad almost two weeks before the Committee posted a
11 “Notice” about Toomey’s ties to Wall Street.⁴⁶ The Complaint alleges that the timing and
12 wording of “Love Affair” are evidence that “[e]ither the campaign is communicating to Majority
13 First [sic] to continue running the ad, or Majority First [sic] took the language from the
14 campaign.”⁴⁷ However, the Complaint fails to present sufficient evidence to infer that such an
15 exchange occurred.⁴⁸ Therefore, as there is insufficient evidence to conclude that Majority
16 Forward had advance access to the “Notice” and republished it, the Commission finds no reason
17 to believe that Majority Forward or the Committee violated 52 U.S.C. §§ 30104(b) and 30118(a).

⁴⁴ See *id.* at 2-4; MUR 6502, F&LA at 9.

⁴⁵ MUR 6821, F&LA at 7 (stating that “the only overlap between the two communications” was a commonality of themes and that this was “not enough to suggest” republication); MUR 6502, F&LA at 9.

⁴⁶ Compl. at 3-4.

⁴⁷ *Id.* at 7.

⁴⁸ See *id.*

1 3. EMILY's List did not Take Part in the Alleged Activities

2 Finally, the Commission finds no reason to believe that EMILY's List made an excessive
3 and unreported contribution to the Committee, or that the Committee accepted such a
4 contribution from EMILY's List. EMILY's List did not finance any of the advertisements,⁴⁹ and
5 to the extent that the Complaint could be read to allege that EMILY's List communicated with
6 the Committee about McGinty's advertising needs and then relayed that information to its
7 IEOPC, WOMEN VOTE!, there is no evidence indicating that such communications occurred.
8 Moreover, EMILY's List and WOMEN VOTE! state that they maintain a firewall, in compliance
9 with the Act, and there is no evidence contradicting that representation or suggesting that the
10 firewall did not function properly.⁵⁰ Therefore, the Commission finds no reason to believe that
11 EMILY's List violated 52 U.S.C. §§ 30104(b) and 30116(a)(2)(A) and (f).

⁴⁹ See EMILY's List and WOMEN VOTE! Resp. at 2.

⁵⁰ *Id.* at 7; see 11 C.F.R. § 109.21(h) (providing that none of the "conduct" standards are met when a political committee maintains a proper firewall and commits to writing the policies surrounding the firewall).